

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION

TRAVELERS CASUALTY & SURETY  
COMPANY OF AMERICA

PLAINTIFF

V.

CIVIL ACTION NO.: 3:16CV00080-DMB-SAA

JIMMY DALLAN NELMS; JIMMY MITCHELL;  
JOSEPH MCNAIR; DANNY PETERS; AND  
JOHN DOES 1-10

DEFENDANTS

RESPONSE TO MOTION FOR DEFAULT JUDGMENT

COMES NOW, defendant, Jimmy Mitchell, by and through counsel, and files this his Response to Plaintiff Travelers' Motion for Default Judgment [dkt 20].

1. Travelers filed its complaint against Jimmy Dallan Nelms, Jimmy Mitchell, Joseph McNair and Danny Peters. This defendant and co-defendant Joseph McNair timely answered the complaint. Defendants Nelms and Peters failed to respond and Travelers now seeks a default judgment against those defendants.

2. In its complaint, Travelers demanded judgment against the defendants, jointly and severally.

3. When joint and several liability is at issue, default judgment against some, but not all, defendants is not appropriate. Such a judgment raises the possibility of inconsistent judgments among similarly situated defendants.

WHEREFORE PREMISES CONSIDERED, this defendant prays that this court will deny Travelers' motion for default judgment.

This the 6<sup>th</sup> day of May, 2016.

Respectfully submitted,

JIMMY MITCHELL - Defendant

By: /s/ Lanny R. Pace

LANNY R. PACE, MSB #9996

Attorney for Defendant

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Lanny R. Pace, hereby certify that I have this day sent via the Court's ECF filing system, a true and correct copy of the foregoing instrument to the following counsel of record:

J. Wade Sweat  
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Counsel for Plaintiff

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123 South Fulton Street  
Iuka, MS 38852  
Counsel for Defendant Joseph McNair

This the 6<sup>th</sup> day of May, 2016.

/s/ Lanny R. Pace  
LANNY R. PACE